



The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

D.T.E. 05-82

February 10, 2006

Petition of Dig Safe System, Inc. for Implementation of 811 as the Abbreviated Dialing Code for Providing Notification of Excavation Activities to Underground Facility Operators Within Massachusetts.

VOTE AND ORDER TO OPEN INVESTIGATION

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I. BACKGROUND

Dig Safe System, Inc. (“Dig Safe”) is the administrator of the Commonwealth of Massachusetts’ “one call” notification system designed to inform underground facility operators of proposed excavations on public or private property.¹ See G.L. c. 164, § 76D. The Dig Safe member operators that have underground facilities in the area of the proposed excavation then arrange for the identification and marking of their facilities. See G.L. c. 82, §§ 40, 40A-40E (also known as the “Dig Safe laws”); 220 C.M.R. §§ 99.00 et seq. The Department of Telecommunications and Energy (“Department”) is responsible for enforcing the Commonwealth’s Dig Safe laws.²

On November 10, 2005, Dig Safe filed a petition (“Dig Safe Petition”) with the Department to implement 811 as the abbreviated dialing code for providing notification of excavation activities to underground facilities operators within Massachusetts. In its Petition, Dig Safe requests that the Department require that:

- (a) the abbreviated dialing code 811 be used exclusively for access to Dig Safe;
- (b) all telecommunications carriers immediately cease using the abbreviated dialing code 811 for any other purpose other than providing access to Dig Safe;

¹ Any person who intends to perform excavations on public or private property in the Commonwealth is required to notify Dig Safe by contacting Dig Safe’s toll-free telephone number, 888-DIG-SAFE (888-344-7233). Access to one call notification systems for other states can be obtained by calling, toll-free, 1-888-258-0808.

² Any violation of the Dig Safe laws found by the Department carries a civil penalty of \$1,000 for the first offense and not less than \$5,000 nor more than \$10,000 for any subsequent offense within twelve consecutive months. G.L. c. 82, § 40E.

- (c) all telecommunications carriers use the area code or operating switch to determine whether the calls should be routed to Dig Safe; and,
- (d) all 811 calls for excavations in Massachusetts be routed by a telecommunications carrier to a toll-free number designated by Dig Safe to ensure that the caller does not incur toll charges.

(Dig Safe Petition at 6).

II. VOTE TO OPEN INVESTIGATION

Consistent with the mandate in the Pipeline Safety Act of 2002³ for a three-digit toll-free nationwide number to be used to access state one call notification systems, the Federal Communications Commission (“FCC”) released its 811 Order⁴ on March 14, 2005 designating an N11 code,⁵ specifically 811, as the national abbreviated dialing code to be used exclusively by a state’s “one call” notification system, such as Dig Safe. 811 Order at ¶¶ 1, 12. The FCC required that the 811 abbreviated code be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless and payphone service providers that provide access to state one call centers. Id. at ¶ 4. The FCC

³ Pub. L. No. 107-355, 115 Stat. 2985 (2002).

⁴ In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Sixth Report and Order, FCC 05-59 (rel. Mar. 14, 2005) (“811 Order”).

⁵ N11 codes are service codes that enable callers to access special services by dialing only three digits. To route the three-digit code, the network is programmed to translate the three-digit code into the appropriate seven or ten-digit dialing sequence. See 811 Order at n.27.

required that this designation of 811 be effective thirty days after publication of the 811 Order in the Federal Register (i.e. May 13, 2005).⁶ Id.

The FCC deferred to the expertise of the carriers, in cooperation with the individual states, to develop and determine the most appropriate technological means of implementing 811 access to one call services, as dictated by their particular network architectures. 811 Order at ¶ 32. The FCC also recognized that states have unique knowledge that will assist in implementing the transition to use of 811 as the abbreviated number to access state one call centers and, accordingly, delegated authority to the states to address the technical and operational issues associated with the implementation of the 811 abbreviated code for access to state one call notification systems. Id. at ¶ 35.

Consistent with the 811 Order and Dig Safe's Petition, the Department votes to open a proceeding to implement 811 as the abbreviated dialing code for providing notification of excavation activities to underground facility operators within Massachusetts. Specifically, this proceeding will identify and address any technical and operational issues associated with

⁶ The 811 Order was published in the Federal Register on April 13, 2005. 70 Fed. Reg. 19, 321 (2005) (to be codified at 47 C.F.R. Part 52).

Additionally, the FCC established a two year transition period, beginning from the date of publication of the 811 Order in the Federal Register, for implementation of 811 as the national abbreviated dialing code for access to state one call centers. 811 Order at ¶¶ 32-34. The transition period provides carriers time to clear the 811 abbreviated dialing code of any other existing uses, provide customer education, and ensure that there is no unreasonably abrupt disruption of the existing uses. Id. at ¶ 34. Based upon the April 13, 2005 publication of the 811 Order in the Federal Register, the two year transition period ends on April 12, 2007.

implementation of 811 as the abbreviated dialing code for providing notification of excavation activities to underground facilities operators within Massachusetts. This proceeding is docketed as D.T.E. 05-82.

The Department invites all interested persons who are substantially and specifically affected by the issues under investigation to petition to intervene in this proceeding. Any person who desires to intervene in this proceeding shall submit an original and three (3) copies of a petition for leave to intervene in this proceeding with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, no later than the close of business on **Friday, February 24, 2006**.

The Department will hold a procedural conference on **Wednesday, March 8, 2006**, following a public hearing at the Department's offices, to establish a procedural schedule for the orderly conduct of this investigation. The Department intends for this proceeding to be conducted as an adjudicatory proceeding, as defined in G.L.c. 30A, § 1(1).

III. **ORDER**

Accordingly, the Department

VOTES: To open an investigation to implement 811 as the abbreviated dialing code for providing notification of excavation activities to underground facilities operators within Massachusetts; and it is

ORDERED: That within three business days of the date of this Order, the Secretary of the Department shall publish the accompanying legal notice; and it is

FURTHER ORDERED: That petitions to intervene in this investigation shall be filed with the Secretary of the Department by Friday, February 24, 2006; and it is

FURTHER ORDERED: That a public hearing and procedural conference in this proceeding will be held at the offices of the Department on Wednesday, March 8, 2006.

By Order of the Department,

/s/
Judith F. Judson, Chairman

/s/
James Connelly, Commissioner

/s/
W. Robert Keating, Commissioner

/s/
Paul G. Afonso, Commissioner

/s/
Brian Paul Golden, Commissioner

NOTICE OF INVESTIGATION AND PUBLIC HEARING

D.T.E. 05-82

Petition of Dig Safe System, Inc. for Implementation of 811 as the Abbreviated Dialing Code for Providing Notification of Excavation Activities to Underground Facility Operators Within Massachusetts.

On November 11, 2005, Dig Safe System, Inc. ("Dig Safe") filed with the Department of Telecommunications and Energy ("Department") a petition to implement 811 as the abbreviated dialing code for providing notification of excavation activities to underground facility operators within Massachusetts. The Department has docketed its investigation of Dig Safe's petition as D.T.E. 05-82. This proceeding will identify and address any technical and operational issues associated with the implementation of 811.

The Department will hold a public hearing to receive comments on Dig Safe's petition on **Wednesday, March 8, 2006, at 10:00 a.m.** at the Department's offices at One South Station, Second Floor, Boston, Massachusetts 02110. A procedural conference will follow immediately thereafter.

The Department invites all interested persons who are substantially and specifically affected by the issues under investigation to petition to intervene in this proceeding. Any person who desires to intervene in this proceeding shall submit an original and three (3) copies of a petition for leave to intervene in this proceeding with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, no later than the close of business on **Friday, February 24, 2006.**

A petition for leave to intervene must satisfy the timing and substantive requirements of 220 C.M.R. § 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 C.M.R. § 1.01(4). To be allowed, a petition under 220 C.M.R. § 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

All written pleadings, nonproprietary comments, letters of intent or petitions to intervene must also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dte.efiling@state.ma.us and Tina.Chin@state.ma.us; or (2) on a 3.5" floppy disk. The text of the e-mail or the disk label must specify: (1) the docket number of the proceeding, D.T.E. 05-82; (2) name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Text responses should be written in either

Notice of Investigation and Public Hearing

WordPerfect, Microsoft Word, or as an Adobe-compatible PDF file. Data or spreadsheet responses should be compatible with Microsoft Excel. All comments submitted in electronic format will be posted on the Department's web site: <http://www.mass.gov/dte>.

Any person desiring further information regarding this notice should contact: Tina W. Chin, Hearing Officer, Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, tel. (617) 305-3500.

By Order of the Department,

MARY L. COTTRELL, SECRETARY